

**MINUTES OF THE REGULAR MEETING**  
**OF THE**  
**PLANNING AND ZONING COMMISSION**

April 13, 2017  
9:30 a.m.

Board of Supervisors Auditorium  
301 W. Jefferson Street  
Phoenix, Arizona

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**MEMBERS PRESENT:**

Mr. Greg Arnett, Chairman  
Ms. Jennifer Ruby, Vice Chairperson  
Mr. Nathan Andersen  
Mr. Bruce Burrows  
Mr. B.J. Copeland (Telephonically)  
Mr. Michael Deutsch

**MEMBERS ABSENT:**

Mr. Michael Cowley  
Mr. Broc Hiatt  
Mr. Michael Johnson  
Mr. Murray Johnson

**STAFF PRESENT:**

Mr. Darren Gerard, Planning Deputy Director  
Ms. Rachel Applegate, Senior Planner  
Mr. Glenn Bak, Planner  
Mr. Farhad Tavassoli, Planner  
Ms. Rosalie Pinney, Recording Secretary

**COUNTY AGENCIES:**

Mr. Dan Brenden, County Attorney

**CONTINUANCE:**

**Z2016081, Z2015092, S2015020**

**REGULAR:**

**Z2016046, Z2016099, Z2016107**

Meeting called to order at 9:31 a.m.

**CONTINUANCE AGENDA**

**Zoning - Z2016081 (cont. from 3/30/17)**

**District 2**

Applicant: Tiffany & Bosco, P.A.  
Location: Generally located approximately 1,700' west of the northwest corner of Thomas Road and Val Vista Drive.  
Request: Zone Change from Rural-43 to IND-2 Industrial Unit Plan of Development (IUPD) - 202 & Thomas

**Zoning - Z2015092****District 3**

Applicant: Garry Hays, PC  
Location: Generally located at the southeast corner of Cloud Rd. and 11<sup>th</sup> Ave. in the Desert Hills area.  
Request: Zone Change from Rural-43 to R1-35 RUPD - North Mountain Estates

**Preliminary Plat - S2015020****District 3**

Applicant: Garry Hays, PC  
Location: Generally located at the southeast corner of Cloud Rd. and 11<sup>th</sup> Ave. in the Desert Hills area.  
Request: Preliminary Plat containing 15 lots and 3 tracts, with a waiver to the requirement for a public water system - North Mountain Estates

Ms. Applegate presented the continuance agenda with recommendation to continue to May 11, 2017.

**BOARD ACTION: Commissioner Burrows motioned to continue Z2016081, Z2015092 and S2015020 to May 11, 2017. Commissioner Deutsch second. Approved to continue 6-0.**

**REGULAR AGENDA****Special Use Permit -Z2016046****District 1**

Applicant: Michael Campbell on behalf of Crown Castle  
Location: Generally located ½ mile to the southwest of Queen Creek Rd. and Higley Rd. in the Gilbert area.  
Request: Special Use Permit (SUP) for a Wireless Communication Facility (WCF) - 180' (h) guyed lattice tower in the Rural-43 zoning district - Crown Castle Chandler

Mr. Bak presented Z2016046 and noted there was a change in the maximum array diameter from 16 feet to 20 feet, 6 inches.

Chairman Arnett asked if there has been any discussion for a text amendment, since the change in the array diameter is more standard with today's technology. Mr. Gerard said they have not been approached.

**COMMISSION ACTION: Commissioner Deutsch motioned to approve Z2016046 with conditions 'a' – 'k' and staff recommended modification to condition 'd'. Commissioner Burrows second. Approved 6-0.**

- a. Development of the site shall comply with the Zoning Exhibit entitled "Crown Castle", consisting of six (6) full-size sheets, stamped received February 27, 2017, except as modified by the following conditions.
- b. Development of the site shall be in conformance with the Narrative Report entitled "Crown Castle", consisting of four (4) pages, stamped

received February 27, 2017, except as modified by the following conditions.

- c. The maximum height of the Wireless Communication Facility shall be limited to 180' (h) including attachments.
- d. The maximum diameter of antenna arrays shall not exceed 20' -6".
- e. The maximum diameter of microwave dishes shall not exceed 8'
- f. Future carriers may co-locate on the Wireless Communication Facility if co-location does not increase overall tower height. Any change to these elements will require an amendment to the Special Use Permit.
- g. This Special Use Permit shall expire 25 years from the date of approval by the Board of Supervisors, inactivity of the use for a period of 90 or more consecutive days, or upon termination of the use, whichever occurs first. All of the site improvements shall be removed within 60 days of such termination or expiration.
- h. Major changes to this Special Use Permit shall be processed as a revised application in the same manner as the original application, with final determination made by the Board of Supervisors following recommendation by staff and the Planning and Zoning Commission. Minor changes may be administratively approved by staff of the Planning and Development Department.
- i. Noncompliance with the Special Use Permit (the site plan and narrative report) or the conditions of approval will be treated as a violation in accordance with provisions of the Maricopa County Zoning Ordinance.
- j. Noncompliance with any Maricopa County Regulation shall be grounds for initiating a revocation of this Special Use Permit as set forth in the Maricopa County Zoning Ordinance.
- k. The granting of this change in use of the property has been at the request of the applicant, with the consent of the landowner. The granting of this approval allows the property to enjoy uses in excess of those permitted by the zoning existing on the date of application, subject to conditions. In the event of the failure to comply with any condition, and at the time of expiration of the Special Use Permit, the property shall revert to the zoning that existed on the date of application. It is, therefore, stipulated and agreed that either revocation due to the failure to comply with any conditions, or the expiration of the Special Use Permit, does not reduce any rights that existed on the date of application to use, divide, sell or possess the property and that there would be no diminution in value of the property from the value it held on the date of application due to such revocation or expiration of the Special Use Permit. The Special Use Permit enhances the

value of the property above its value as of the date the Special Use Permit is granted and reverting to the prior zoning results in the same value of the property as if the Special Use Permit had never been granted.

**Zoning - Z2016099**

**District 4**

Applicant: Courtland Communities, c/o Tiffany & Bosco, PA  
Location: Located at the northwest corner of Thunderbird Road and 71<sup>st</sup> Avenue in the Peoria area  
Request: Zone change from Rural-43 to R1-10 RUPD - 71<sup>st</sup> & Thunderbird

Mr. Tavassoli presented Z2016099, and noted there are three (3) letters of support from neighboring land owners. The City of Peoria has not expressed opposition and have been working closely with the applicant to discuss future annexation plans. Additional conditions were added with the rezone request under f.2 and also proposed adding conditions 'j'-'m'.

Mr. Bill Lalley representing the applicant stated they have been working hand in hand with the City of Peoria. They didn't annex with the City of Peoria right away because the challenge is Courtland Homes does not own the property yet, and the existing property owner has had a number of open violations thus is hesitant to go through the Peoria process. In order to rezone and get Courtland Homes to redevelop the property, he would not allow us to annex into Peoria and begin the process. The zoning case meshes with their design and development standards, so we had to make sure that some of the stipulations were a little more detailed, especially with a conceptual site plan. The City of Peoria complains to the County once a year of the unsightliness of the property, and they would like to get it cleaned up as soon as possible. The current land owner is less motivated than the applicant, but we are in agreement with the City of Peoria with the new stipulations.

Commissioner Andersen stated he appreciates the efforts working with the City of Peoria with the intentions to ultimately be annexed.

Commissioner Andersen asked for clarification if they are intending to process the pre-plat in the County and the final plat in the City of Peoria. Mr. Lally said yes, that has been the discussion so far. The client has not begun the pre-plat in the County, and wanted to make sure that the process in Peoria was going to be congruent with what we're doing here with the County. In the City of Peoria pre-plats are administratively approved by staff and then final plats are approved by council, so in Maricopa County we actually would have an extra public hearing for the pre-plat in front of the Commission instead of processing through the City of Peoria which would just be administrative. We're going through an onerous process at the County with the pre-plat, but that is the choice the applicant and land owner have decided to go forward with.

Chairman Arnett asked if there is a letter from the City of Peoria stating they are on board with these stipulations. Mr. Tavassoli said yes.

Mr. Gerard stated this project will be resolving a decade's long violation, and a blighted property to the community of Peoria, and it's going to remove potential for a permanent County island, so these are all positives.

**COMMISSION ACTION: Commissioner Burrows motioned to approve Z2016099 with conditions 'a' – 'i' and staff recommended modification to condition 'f.2' and inclusion of 'j'-'m'. Commissioner Andersen second. Approved 6-0.**

- a. Development of the site shall comply with the conceptual site plan entitled "71<sup>st</sup> Avenue and Thunderbird", consisting of 1 full-size sheet, dated January 2017 and stamped received February 14, 2017 except as modified by the following conditions.
- b. Development of the site shall be in conformance with the Narrative Report entitled "Courtland Communities 71<sup>st</sup> Avenue and Thunderbird Road", consisting of 8 pages, dated February 14, 2017, and stamped received February 14, 2017 except as modified by the following conditions.
- c. The following R1-10 RUPD standards shall apply:
  1. Front yard: 10' (setback for side entry garage or forward living product; Front yard setback may be reduced by up to 5-feet at knuckles, cul-de-sacs, and roadway tapers such that an 18-foot driveway (measured from back of sidewalk) is provided and that all other Zoning District Standards are met.)
  2. Side Yard: 5'/10' (15' min. total separation)
  3. Rear yard: 15'
  4. Lot coverage: 55%

All other standards if the R1-10 zoning district shall remain unchanged.
- d. The applicant/property owner shall submit a 'will serve' letter from the Peoria Fire Department for fire protection services for the project site. A copy of the 'will serve' letter shall be required as part of the initial construction permit submittal.
- e. The following Maricopa County Department of Environmental Services Department (MCESD) conditions shall apply, unless such time the property is annexed by the City of Peoria:
  1. A separate Approval to Construct (ATC) for public water and sewer be submitted to MCESD for approval.
  2. Development and engineering design shall be in conformance with the Maricopa County Stormwater Quality Management and Discharge Control Regulation. The owner/developer shall prepare a Stormwater Site Plan and obtain approval by MCESD prior to construction. (A separate submittal to MCESD is required.)

3. Upon completion of construction, the owner shall fulfill MCESD post-construction requirements. This will include appropriate operation and maintenance requirements.
- f. The following Engineering conditions shall apply:
1. It is understood that the subject premises will be annexed into the City of Peoria in order to obtain water and sewer service. All local and offsite right-of-way and street improvements shall conform to the City of Peoria standards or requirements.
  2. Unless such time the property is annexed by the City of Peoria, maximum retention basin depth shall be 3 feet plus one (1) foot of freeboard. Depths in excess of this requirement shall require implementation of safety measures (i.e. pool barrier type fencing).
  3. A Traffic Impact Study to address traffic impacts and roadway improvements required to support the proposed development must be submitted with the Preliminary Plat application(s).
- g. The R1-10 RUPD zoning approval is conditional per Maricopa County Zoning Ordinance Article 304.6 for a period of five (5) years. Within five (5) years of Board of Supervisors' approval there shall be Final Plat approval for the residential site or the zoning may be considered for reversion to Rural-43 at public hearing of the Board of Supervisors after recommendation by the Planning and Zoning Commission, unless within such time the property is annexed by the City of Peoria.
- h. Noncompliance with any Maricopa County Regulation or condition of approval shall be grounds for initiating a revocation of this Zone Change as set forth in the Maricopa County Zoning Ordinance. The property owner/s and their successors waive claim for diminution in value if the County takes action to rescind approval due to noncompliance with conditions.
- i. The granting of this change in use of the property has been at the request of the applicant, with the consent of the landowner. The granting of this approval allows the property owner to enjoy uses in excess of those permitted by the zoning existing on the date of application, subject to conditions. In the event of the failure to comply with any condition, a hearing shall be scheduled with the Board of Supervisors for consideration to revert the zoning that existed on the date of application. It is, therefore, stipulated and agreed that either revocation due to the failure to comply with any conditions, does not reduce any rights that existed on the date of application to use, divide, sell or possess the property and that there would be no diminution in value of the property from the value it held on the date of application due to such revocation of the Zone Change. The Zone Change enhances the value of the property above its value as of the date

the Zone Change is granted and reverting to the prior zoning results in the same value of the property as if the Zone Change had never been granted.

- j. The project shall provide for 7% useable open space and 12% minimum total open space, each measured by the net area of the project. An amenity area shall be provided that is appropriate for the project and reviewed and accepted by the City. This may include items such as a ramada, barbecue, seating area, and/or playground structure.
- k. A 30' right-of-way dedication shall be made to the City of Peoria for the half-street of 71st Avenue and the roadway shall be constructed to match the Redfield Estates subdivision to the north. The right-of-way dedication shall be widened to accommodate the intersection improvements at 71st Avenue and Thunderbird Road.
- l. The southern entrance shall be revised to meet the development standards of the City of Peoria for private gated entries. The northern entrance is acceptable as reflected on the site plan dated January 2017. A reduced section at the southern entrance may be accepted by the City if an alternative is presented to and approved by the City.
- m. Upon annexation into the City of Peoria, the internal street section shall be a private tract consisting of a 32' roadway (measured from back-of-curb to back-of-curb) and 5' sidewalks on each side. The private roadway tract shall be 42' wide to accommodate the roadway.

**Zoning - Z2016107**

**District 1**

Applicant: Tim R. Nielson  
Location: Generally located at the northeast corner of Loop 202 (Red Mountain Fwy.) and Country Club Drive in the Mesa area  
Request: Zone change from Rural-43 to IND-2 IUPD - Superstition Crushing

Mr. Tavassoli presented Z2016107. The zone change request is intended to resolve an existing violation with regards to the existing building setbacks and screening requirements. According to the applicant the site has been operating as a commercial vehicle and crushing equipment repair facility since 1965. The applicant requests variations from the base zoning IND-2 standards with regards to side yard and fencing requirements. The base zoning standards for light industrial require a five (5) foot side yard setback and a six (6) foot solid screening wall. In regard to the IUPD overlay, the applicant is requesting a zero side yard setback and a six (6) foot open chain link fencing in lieu of the solid block fencing. A revision to condition 'f' has been discussed. Staff is providing the option for the applicant to file for legal non-conforming status for the existing shelter since it has been there for quite some time. Staff believes the site is appropriate for light industrial use as the vicinity is dominated by other industrial uses. There is no opposition from neighboring land owners or the City of Mesa.

Chairman Arnett asked how old is the current zoning. Mr. Gerard said it is a pre-1969 ordinance zoning. Many of these properties have evolved from mining exemptions and

into more industrial operations and the uses have expanded from industrial zoning onto the adjacent Rural-43 property. There is a parcel that was never rezoned industrial that was bisected, and now there's a lingering Rural-43 triangle.

Commissioner Andersen asked where the zero lot line is on the site. Mr. Tavassoli said it is on the eastern boundary of the property with the existing shelter encroaching the property line. One of the conditions of the approval is the applicant can obtain an encroachment permit from Arizona Department of Transportation (ADOT) to resolve the issue.

Commissioner Andersen asked how likely ADOT will grant this kind of encroachment permit. Mr. Tim Nielson representing Superstition Crushing stated it's been an interesting case, we discovered the right-of-way easement granted for the freeway went through without realizing the right-of-way. They were cutting off the corner of their building and during construction they discovered it. Then it was decided that ADOT would take their fence and go around the building. With ADOT it can take quite a long time to get through their process, but they are acknowledging that the best resolution is to give the land back to Superstition Crushing and to keep the building there.

Chairman Arnett asked if that's an indefinite encroachment permit. Mr. Nielson said ADOT can make it any way they want, they could make it temporary until such time as a final resolution to give some land back.

Chairman Arnett asked if the client is comfortable moving forward with this encroachment permit as opposed to changing the boundary. Mr. Nielson said the County is wanting to get this cleaned up and out of their system so we can move forward, and the quickest method is to get the encroachment permit and work with ADOT on a final resolution with the land.

Chairman Arnett stated he understands the recommendation but are we creating any other potential issues long term by still having the building straddle the property line, and are we creating something else that will need to be cleaned up? Mr. Gerard noted if it were an enclosed building we would have a construction code issue. Whether or not it could get a specific waiver from the building official is a potential, but when you are talking about property lines it is not a government entity or freeway, and there is potential for another building so we would require firewalls along that line. We do anticipate ADOT to be as diligent as they can with the encroachment permit, and glad they are considering a transfer of property since that would be the cleanest answer.

Commissioner Deutsch asked if a year is enough time to get the building permits. Mr. Gerard said he cannot speak for the ADOT process, but there's also some questions whether we would require permitting since it is pre-1999. This will not affect the current operation since they are already in the building operating.

Vice Chairperson Ruby said she understands that the zoning reverts if they are not successful with the ADOT encroachment permit. Mr. Tavassoli said yes it's in the last condition. Mr. Gerard said we would actually go through the formal process of bringing it back to the Commission to have due process.



**COMMISSION ACTION: Commissioner Deutsch motioned to approve Z2016107 with conditions 'a' – 'h' and staff recommended modification to condition 'f'. Commissioner Burrows second. Approved 6-0.**

- a. Development of the site shall comply with the exhibit entitled "Zone Change for Superstition Crushing Co.", consisting of 1 full-size sheet, dated February 8, 2017 and stamped received February 9, 2017 except as modified by the following conditions.
- b. Development of the site shall be in conformance with the Narrative Report entitled "Narrative Report", consisting of 4 pages, dated February 8, 2017 and stamped received February 9, 2017 except as modified by the following conditions.
- c. The following IND-2 IUPD standards shall apply:
  - 1. Side Yard: 0'
  - 2. Screening: 6' open chain link fence

All other standards of the IND-2 zoning district shall apply.
- d. The applicant/property owner shall submit a 'will serve' letter from Rural Metro Fire Department for fire protection services for the project site. A copy of the 'will serve' letter shall be required as part of the initial construction permit submittal.
- e. Until such time as the site is served by public water and sewer, uses on the site shall only be those acceptable to the Maricopa County Environmental Services Department (MCESD) that can be accommodated by septic systems. A public water system and public sewer system shall be required prior to establishment of any non-residential use that requires potable water.
- f. The IND-2 IUPD zoning approval is conditional per Maricopa County Zoning Ordinance Article 304.6 for a period of either (a) one year from the date of Board of Supervisors approval within which time there shall be final approval of a building permit for the existing repair shelter or any other structures as applicable, or (b) six months from the date of Board of Supervisors approval within which time the applicant shall obtain legal non-conforming status for the existing repair shelter. The applicant shall also provide an encroachment permit from ADOT for the shelter and the chain link fence. Failure to obtain said permits may be grounds for reversion to Rural-43 at public hearing of the Board of Supervisors after recommendation by the Planning and Zoning Commission, unless within such time the property is annexed by the City of Mesa.
- g. Noncompliance with any Maricopa County Regulation or condition of approval shall be grounds for initiating a revocation of this Zone Change as

set forth in the Maricopa County Zoning Ordinance. The property owner/s and their successors waive claim for diminution in value if the County takes action to rescind approval due to noncompliance with conditions.

- h. The granting of this change in use of the property has been at the request of the applicant, with the consent of the landowner. The granting of this approval allows the property owner to enjoy uses in excess of those permitted by the zoning existing on the date of application, subject to conditions. In the event of the failure to comply with any condition, a hearing shall be scheduled with the Board of Supervisors for consideration to revert the zoning that existed on the date of application. It is, therefore, stipulated and agreed that either revocation due to the failure to comply with any conditions, does not reduce any rights that existed on the date of application to use, divide, sell or possess the property and that there would be no diminution in value of the property from the value it held on the date of application due to such revocation of the Zone Change. The Zone Change enhances the value of the property above its value as of the date the Zone Change is granted and reverting to the prior zoning results in the same value of the property as if the Zone Change had never been granted.

Chairman Arnett adjourned the meeting at 9:58 a.m.

Prepared by Rosalie Pinney  
Recording Secretary / Administrative Assistant  
April 13, 2017